

Exhibit B

From: Tarbutton, J. Scott <STarbutton@cozen.com>

Sent: Friday, March 27, 2020 2:42 PM

To: Kellogg, Michael K. <mkellogg@kellogghansen.com>; Rapawy, Gregory G. <grapawy@kellogghansen.com>; Shen, Andrew C. <ashen@kellogghansen.com>; WTC[sarah.normand@usdoj.gov] <sarah.normand@usdoj.gov>; Vargas, Jeannette <jeannette.vargas@usdoj.gov>; Krause, Andrew (USANYS) 1 <Andrew.Krause@usdoj.gov>; Kabat, Alan <kabat@bernabeipllc.com>; 'Cottreau, Steven T.' <scottreau@jonesday.com>; Eric L. Lewis <Eric.Lewis@LBKMLAW.com>; Waleed.Nassar@LBKMLAW.com; Aisha Bemby <Aisha.Bembry@LBKMLAW.com>; WTC[omohammedi@otmlaw.com] <omohammedi@otmlaw.com>; fgoetz@goetzeckland.com; rkry@mololamken.com; enitz@mololamken.com; peter.salerno.law@gmail.com; McMahon, Martin <mm@martinmcmahonlaw.com>
Cc: Carter, Sean <SCarter1@cozen.com>; 'Haefele, Robert' (rhaefele@motleyrice.com) <rhaefele@motleyrice.com>; WTC[jflowers@motleyrice.com] <jflowers@motleyrice.com>; Kreindler, James <jkreindler@kreindler.com>; Maloney, III, Andrew <amaloney@kreindler.com>; Steven R. Pounian <Spounian@kreindler.com>; Goldman, Jerry <jgoldman@andersonkill.com>; Strong, Bruce <Bstrong@andersonkill.com>; Clark,Jr., William <WClark@cozen.com>

Subject: [EXTERNAL] Notice of Service of Subpoenas - In Re Terrorist Attacks on September 11, 2001 (Case No. 1:03-MD-01570)

Counsel – Please accept this as notice pursuant to Rule 45(a)(4) of the Federal Rules of Civil Procedure that the Plaintiffs’ Executive Committees in *In re Terrorist Attacks on September 11, 2001*, 03-md-1570 (GBD)(SN) (“MDL 1570”), on behalf of all plaintiffs, intend to promptly serve the attached subpoenas. To the extent there are additional interested counsel, we ask Defendants’ Liaison Counsel or other related counsel to please circulate this notice and the attached subpoenas accordingly.

Regards,

Scott Tarbutton

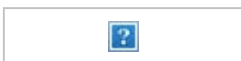
On behalf of the Plaintiffs’ Executive Committees

J. Scott Tarbutton

Member | Cozen O'Connor

One Liberty Place, 1650 Market Street Suite 2800 | Philadelphia, PA 19103

P: 215-665-7255 F: 215-701-2467



[Email](#) | [Bio](#) | [LinkedIn](#) | [Map](#) | [cozen.com](#)

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Bandwidth.com, Inc. of North Carolina
 In care of: Corporation Service Company (CSC) Dauphin, 2595 Interstate Dr. #103, Harrisburg, PA 17110
(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 17 North 2nd Street
 Suite 1410, Harrisburg, PA 17101

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Bandwidth.com, Inc.” shall mean Bandwidth.com, Inc., including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Bandwidth.com, Inc.’s behalf.
- f. “You” and “Your” shall mean Bandwidth.com, Inc., including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Bandwidth.com, Inc.’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Bandwidth.com, Inc. telephone numbers:

(202) 697-6224
(303) 468-9220
(310) 275-5575
(310) 301-3000
(310) 477-9800
(310) 666-0077
(310) 694-0220
(323) 200-9000
(520) 329-1757
(571) 213-2199

(619) 273-3733
(619) 280-4440
(619) 378-9991
(619) 450-1221
(619) 483-4010
(619) 485-1917
(619) 535-6293
(619) 784-5894
(626) 447-8784
(702) 735-7719
(703) 531-2901
(703) 531-2905
(703) 536-1030
(714) 878-9888
(818) 340-2494
(858) 272-1893
(858) 278-5240
(858) 503-0113
(909) 684-5466
(909) 781-4434
(909) 784-5466
(916) 392-6687

2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

Legal\45483796\1

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

BCE, Inc.

In care of: CT Corporation System, 600 North 2nd Street, Suite 401, Harrisburg, PA 17101

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 17 North 2nd Street,
Suite 1410, Harrisburg, PA 17101

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
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(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Bell Canada” shall mean Bell Canada, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Bell Canada’s behalf.

“Bell Mobility” shall mean Bell Mobility, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Bell Mobility’s behalf.
- f. “You” and “Your” shall mean the following entities, individually and/or collectively: Bell Canada; Bell Mobility; including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on their behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Bell Canada telephone numbers:

(519) 227-7623
(613) 248-0872
(819) 379-1317
(819) 379-9991

(819) 465-1917
(819) 846-5611

2. Subscriber Information for the following Bell Mobility telephone number:

(519) 281-2508

3. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

Legal\45485392\1

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Cablevision Lightpath, Inc.

In care of: CSC Holdings, LLC, 1111 Stewart Avenue, Bethpage, NY 11714

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 45 Broadway, 16th Floor,
New York, NY 10006

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Cablevision Lightpath, Inc. - NY” shall mean Cablevision Lightpath, Inc. - NY, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cablevision Lightpath, Inc. - NY’s behalf.
- f. “You” and “Your” shall mean Cablevision Lightpath, Inc. - NY, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cablevision Lightpath, Inc. – NY’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Cablevision Lightpath, Inc. - NY telephone number:

(718) 331-2843
2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone number to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Cavalier Telephone, LLC
2134 West Laburnum Avenue, Richmond, VA 23227*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 2 Jame Center, 1021 E. Cary Street,
Suite 1420, Richmond, VA 23219

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Cavalier Telephone, LLC - VA” shall mean Cavalier Telephone, LLC - VA, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cavalier Telephone, LLC - VA’s behalf.
- f. “You” and “Your” shall mean Cavalier Telephone, LLC - VA, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cavalier Telephone, LLC – VA’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Cavalier Telephone, LLC - VA telephone number:

(202) 944-5482
2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone number to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Century Link

In care of: CT Corportion System, 600 North 2nd Street, Suite 401, Harrisburg, PA 17101

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: McNeese Wallace
100 Pine Street
Harrisburg, PA 17108

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Robert Haefele, Motley Rice, 28 Bridgeside Blvd., Mt. Pleasant, NC 29464; 843-216-9184; rhaefele@motleyrice.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Level 3 Communications, LLC” shall mean Level 3 Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Level 3 Communications, LLC’s behalf.

“Qwest Communications Corporation” shall mean Qwest Communications Corporation, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Qwest Communications Corporation’s behalf.

“Central Telephone Co. NV” shall mean Central Telephone Co. NV, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Central Telephone Co. NV’s behalf.

- f. “You” and “Your” shall mean the following entities, individually and/or collectively: Level 3 Communications, LLC; Qwest Communications Corporation; Central Telephone Co. NV; including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on their behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date

of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Level 3 Communications, LLC telephone numbers:

(202) 338-8565
(202) 955-2117
(303) 469-9220
(310) 754-2003
(310) 839-0999
(510) 574-1250
(516) 825-4117
(619) 230-0300
(619) 378-1317
(619) 452-1155
(619) 683-2446
(703) 256-1300
(714) 491-0585
(714) 776-1847
(714) 776-8340
(718) 899-6900
(818) 713-8111
(858) 277-5941
(858) 496-0350
(858) 569-6068
(858) 587-1770
(909) 447-5872

2. Subscriber Information for the following Qwest Communications Corporation telephone numbers:

(303) 492-5007
(206) 248-5415
(303) 786-1989
(402) 345-7501
(425) 453-8421
(425) 454-7962
(425) 703-5473
(480) 394-6398
(502) 943-7994
(541) 938-6492
(602) 306-4866
(602) 306-4870
(970) 207-9553

3. Subscriber Information for the following Central Telephone Co. NV telephone numbers:

(702) 253-7518

(702) 399-3297

(702) 731-2111

4. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Charter Communications

In care of: CT Corporation System, 600 No. 2nd Street, Suite 401, Harrisburg, PA 17101

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: McNeese Wallace
100 Pine Street
Harrisburg, PA 17108

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Robert Haefele, Motley Rice, 28 Bridgeside Blvd., Mt. Pleasant, NC 29464; rhaefele@motleyrice.com; 843-216-9184

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Charter Fiberlink, LLC” shall mean Charter Fiberlink, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Charter Fiberlink, LLC’s behalf.

“Time Warner Cable Information Services (New Hampshire), LLC” shall mean Time Warner Cable Information Services (New Hampshire), LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Time Warner Cable Information Services (New Hampshire), LLC’s behalf.

“Time Warner Communications, LLC” shall mean Time Warner Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Time Warner Communication LLC’s behalf.

- f. “You” and “Your” shall mean the following entities, individually and/or collectively: Charter Fiberlink, LLC; Time Warner Cable Information Services (New Hampshire), LLC; Time Warner Communications, LLC; including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on their behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date

of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Charter Fiberlink, LLC telephone numbers:

(562) 597-1098
(626) 308-0014

2. Subscriber Information for the following Time Warner Cable Information Services (New Hampshire), LLC telephone numbers:

(212) 751-7000
(310) 478-0729
(310) 479-6000
(310) 497-6000
(310) 559-5177
(310) 559-9644
(310) 670-5928
(310) 793-1711
(310) 833-5800
(310) 839-1111
(310) 876-1801
(310) 910-0535
(619) 298-3000
(626) 358-0430
(661) 255-3614
(714) 265-6060
(714) 531-8634
(714) 556-0466
(714) 635-3113
(714) 635-4353
(714) 956-2222
(714) 956-2434
(714) 963-7053
(718) 626-6633
(808) 823-8901
(818) 510-0145
(818) 510-0166
(858) 279-2902
(858) 292-8885
(858) 453-0652
(858) 454-0101

3. Subscriber Information for the following Time Warner Communications, LLC telephone number:

(808) 922-0511

4. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorists Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Comcast Corporation

In care of: CT Corporation System, 28 Liberty Street, New York, NY 10005

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Kreindler & Kreindler, 750 Third Avenue,
New York, NY 10017

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

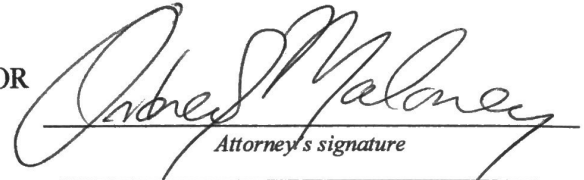
The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Andrew Maloney, Kreindler & Kreindler, 750 Third Ave., NY, NY 10017, amaloney@kreindler.com; 212-687-8181

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Comcast Phone” shall mean Comcast Phone, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Comcast Phone’s behalf.

“Comcast Phone of Georgia, LLC – GA” shall mean Comcast Phone of Georgia, LLC – GA, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Comcast Phone of Georgia, LLC – GA’s behalf.

“Comcast Phone of Idaho” shall mean Comcast Phone of Idaho, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Comcast Phone of Idaho’s behalf.

- f. “You” and “Your” shall mean the following entities, individually and/or collectively: Comcast Phone; Comcast Phone of Georgia, LLC – GA; Comcast Phone of Idaho; including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on their behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Comcast Phone telephone numbers:

(281) 335-9944
(302) 653-6265
(302) 653-9217
(540) 951-1319
(541) 343-2065
(703) 518-3029
(703) 820-5730

2. Subscriber Information for the following Comcast Phone of Georgia, LLC - GA telephone number:

(678) 479-0227

3. Subscriber Information for the following Comcast Phone of Idaho telephone numbers:

(401) 762-0107
(619) 423-6200
(619) 426-3616
(619) 440-8915
(619) 465-0055
(619) 640-1633
(619) 749-4408
(858) 268-8823
(858) 486-0033
(858) 513-1773
(858) 513-2638
(949) 595-0484
(949) 706-0312
(949) 706-0313
(949) 951-6243

4. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorists Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: Cox California Telecom, Inc. by fax to: subpoenaresponse@cox.com
Records Custodian, Cox Communications, inc. 6205-B Peachtree Dunwoody Rd., Atlanta, GA 30382

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, The Promenade, 1230 Peachtre St.
NE, Suite 400, Atlanta, GA 30309

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Cox California Telcom, Inc. - CA” shall mean Cox California Telcom, Inc. - CA, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cox California Telcom, Inc. - CA’s behalf.
- f. “You” and “Your” shall mean Cox California Telcom, Inc. - CA, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Cox California Telcom, Inc. - CA’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Cox California Telcom, Inc. - CA telephone numbers:

(619) 232-3861
(619) 280-6400
(619) 297-0397
(619) 303-2530
(619) 420-2080
(619) 421-8134
(619) 449-8660

(619) 594-4119
(619) 594-5431
(619) 594-5907
(619) 594-6300
(619) 594-7800
(619) 690-5469
(619) 696-0702
(619) 934-3264
(703) 802-4705
(760) 489-2208
(858) 457-3040
(858) 496-8400

2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Exiant Communications, LLC, Compliance Support
1213-J Liberty Road #104, Eldersburg, MD 21784 by email to: subpoena@exiantcom.com

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 1200 19th Street, NW, 3rd Floor,
Washington, DC 20036

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market Street, Phila., PA 19103; scarter1@cozen.com;
215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Exiant Communications, LLC” shall mean Exiant Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Exiant Communications, LLC’s behalf.
- f. “You” and “Your” shall mean Exiant Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Exiant Communications, LLC’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Exiant Communications, LLC telephone numbers:

(310) 277-0015
(909) 323-4987
(909) 662-8343

2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused

documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Focal Communication Corporation
200 North LaSalle Street, Suite 1100, Chicago, IL 60601*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 123 North Wacker Drive,
Suite 1800, Chicago, IL 60606

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Focal Communications Corporation” shall mean Focal Communications Corporation, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Focal Communications Corporation’s behalf.
- f. “You” and “Your” shall mean Focal Communications Corporation, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Focal Communications Corporation’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

- 1. Subscriber Information for the following Focal Communications Corporation telephone numbers:

(323) 935-5888
(323) 935-6888
(713) 952-1630
- 2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused

documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorists Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Freedom Ring Communications, LLC
359 Corporate Drive, Portsmouth, NH 03801

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Kreindler & Kreindler 855 Boylston #1101 Boston, MA 02116	Date and Time: 04/27/2020 10:00 am
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☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Freedom Ring Communications, LLC” shall mean Freedom Ring Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Freedom Ring Communications, LLC’s behalf.
- f. “You” and “Your” shall mean Freedom Ring Communications, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Freedom Ring Communications, LLC’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Freedom Ring Communications, LLC telephone number:

(603) 452-0817
2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone number to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorists Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Frontier Telephone of Rochester, Inc.

In care of: Corporation Service Company, 2595 Interstate Dr., Ste. 103, Harrisburg, PA 17110

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor
17 North 2nd Street, Suite 1410
Harrisburg, PA 17101

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Frontier Telephone of Rochester, Inc.” shall mean Frontier Telephone of Rochester, Inc., including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Frontier Telephone of Rochester, Inc.’s behalf.
- f. “You” and “Your” shall mean Frontier Telephone of Rochester, Inc., including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Frontier Telephone of Rochester, Inc.’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Frontier Telephone of Rochester, Inc. telephone number:

(909) 652-8383
2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone number to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Hawaiian Telecom, Inc.
1177 Bishop Street, Honolulu, HI 96813*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Ogawa, Lau, Nakamura & Jew 707 Richards Street, Suite 600 Honolulu, HI 96813	Date and Time: 04/27/2020 10:00 am
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☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs'
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen OConnor, 1 Libert Pl., 1650 Market Street, Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Hawaiian Telcom, Inc. - HI” shall mean Hawaiian Telcom, Inc. - HI, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Hawaiian Telcom, Inc. - HI’s behalf.
- f. “You” and “Your” shall mean Hawaiian Telcom, Inc. - HI, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Hawaiian Telcom, Inc. - HI’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Hawaiian Telcom, Inc. - HI telephone numbers:

(808) 394-5770
(808) 441-2460
(808) 922-8999
(808) 923-4466

2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused

documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Inteliquent, Inc.
550 West Adams Street, Suite 900, Chicago, IL 60661*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 123 No. Wacker Drive
Chicago, IL 60606

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs;
Executive Committees, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT

I. Instructions and Definitions:

1. This subpoena is issued pursuant to Rule 45 of the Federal Rules of Civil Procedure and all documents specified below are required to be produced as required by Rule 45.
2. Each document responsive to this subpoena shall be produced in its entirety, with all non-identical copies and drafts, without abbreviation or redaction, subject only to credible assertions of privileges recognized under the common law.
3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Broadvox – CLEC, LLC” shall mean Broadvox – CLEC, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Broadvox – CLEC, LLC’s behalf.

“Neutral Tandem Illinois, LLC” shall mean Neutral Tandem Illinois, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Neutral Tandem Illinois, LLC’s behalf.

“Onvoy, Inc.” shall mean Onvoy, Inc., including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Onvoy, Inc.’s behalf.

- f. “You” and “Your” shall mean the following entities, individually and/or collectively: Broadvox – CLEC, LLC; Neutral Tandem Illinois, LLC; Onvoy, Inc.; including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on their behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

1. Subscriber Information for the following Broadvox – CLEC, LLC telephone number:

(858) 266-9621

2. Subscriber Information for the following Neutral Tandem Illinois, LLC telephone numbers:

(202) 416-1612

(310) 876-8676

(425) 936-1526

(425) 936-2343

(562) 924-0029

(619) 270-3439

(619) 284-6361

(619) 287-9454

(619) 793-1551

(619) 996-9666

(760) 214-9387

(770) 638-0040

(858) 271-4300

(858) 578-2500

(858) 635-4020

(858) 635-4529

(858) 635-4571

(858) 635-4615

(858) 635-4772

(858) 635-4862

3. Subscriber Information for the following Onvoy, Inc. telephone numbers:

(760) 214-9912

(805) 678-6525

(805) 876-6525

(805) 878-6525

4. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

In Re Terrorist Attacks on September 11, 2001

Plaintiff

v.

Defendant

Civil Action No. 03-MDL-1570

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Peerless Network of Illinois, CCL f/k/a Common Pointe Networks of Illinois, LLC
Peerless Network, Inc., 222 S. Riverside Plaza, Suite 1900, Chicago, IL 60606

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See Attachment

Place: Cozen O'Connor, 123 No. Wacker Drive,
Suite 1800, Chicago, IL 60606

Date and Time:

04/27/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/27/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiffs'
Executive Committee, who issues or requests this subpoena, are:

Sean Carter, Cozen O'Connor, 1 Liberty Pl., 1650 Market St., Phila., PA 19103; scarter1@cozen.com; 215-665-2105

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 03-MDL-1570

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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3. If You assert a privilege or other authorized protection with respect to any document requested herein, You must produce all non-privileged/protected portions of the document with those portions as to which a privilege/protection is claimed redacted, and You must provide a privilege log that conforms with the requirements set out by United States Magistrate Judge Frank Maas in the case captioned *In re Terrorist Attacks on September 11, 2001*, No. 03-md-1570 (S.D.N.Y.), by Order dated November 19, 2012 (ECF No. 2644), including providing the following information concerning each individual document withheld or redacted:
 - a. The type of document or information (*e.g.*, letter, notebook, telephone conversation, etc.);
 - b. The general subject matter of the document;
 - c. The date of the document;
 - d. The authors of the document, the addressees of the document and any other recipients, and where not apparent, the relationship of the authors, addressees, and recipients to one another;
 - e. If the document is an electronic document, its file size; and
 - f. Each and every basis for the privilege or protection claimed; and if a privilege or protection asserted is based upon or governed by a law, statute, regulation, or rule, the specific law, statute, regulation, or rule being invoked.
4. As used herein, the following terms are defined as follows:
 - a. “Document” or “Documents” are defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” and “any designated tangible things” as used in Fed. R. Civ. P. 34(a)(1)(A) and (B). A draft or non-identical copy is a separate document within the meaning of this term.
 - b. “Concerning” shall mean referring to, relating to, describing, evidencing, constituting, or in any way relevant to.

- c. “All,” “any,” and “each” shall each be construed as encompassing any and all.
- d. “And” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
- e. “Peerless Network of Illinois, LLC” (previously d/b/a Common Pointe Networks of Illinois, LLC – IL) shall mean Peerless Network of Illinois, LLC, including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Peerless Network of Illinois, LLC’s behalf.
- f. “You” and “Your” shall mean Peerless Network of Illinois, LLC (previously d/b/a Common Pointe Networks of Illinois, LLC – IL), including all predecessors-in-interest; successors-in-interest; parent institutions, corporations or other entities; affiliated or subsidiary institutions, corporations or other entities; present or former employees, officers, directors, or agents; and others known to You to have acted on Peerless Network of Illinois, LLC’s behalf.
- g. “Subscriber Information” shall mean the name of each subscriber or customer associated with the phone number or account; each account number associated with the phone number; each service address and billing address associated with the phone number or account; the name of each person or entity that opened the account or to which billing statements were directed; the features associated with the phone number or account; and any other phone numbers associated with the account.
- h. The “applicable time period” is defined as from January 1, 1995 through and including December 31, 2002. A responsive Document that was prepared prior to the applicable time period but that was operative and in use during the applicable time period must be produced. If a Document is undated, the date of its preparation cannot be ascertained, and the Document is otherwise responsive to the Request, the Document shall be produced.

II. To Be Produced:

- 1. Subscriber Information for the following Peerless Network of Illinois, LLC telephone numbers:

(714) 531-1722
(718) 622-0800
(858) 513-3061

2. Any and all documents concerning Your document destruction, retention, or storage procedures in effect between 1995 and the present, which could have caused documents concerning the aforementioned telephone numbers to be destroyed or to no longer be in Your possession, custody, or control.

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